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IDENTICAL LETTERS DATED 12 MAY 1992 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED RESPECTIVELY TO THE SECRETARY-GENERAL AND THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I wish to provide you with the following information:

1. Ever since the beginning of direct negotiations between Iraq and Iran at Geneva in 1988, the Iranian side has persistently rejected the release of all prisoners in the two countries in accordance with article 118 of the third Geneva Convention of 1949, releasing instead only a limited number of prisoners, sick, wounded and disabled, despite the holding of many meetings to discuss the issue under the auspices of the International Committee of the Red Cross (ICRC). Iran deliberately used the issue of its remaining Iraqi prisoners as human hostages and a political card for the exertion of pressure, as a means of extortion and for bargaining.

2. In accordance with the initiative of the President (may God preserve him) of 14 August 1990, Iraq began as of 17 August 1990 to release all Iranian prisoners and to repatriate them to Iran. No Iranian prisoner remains in Iraq other than those who have refused to return to their country and informed ICRC of their refusal to do so. The Iranian side has been notified of Iraq's compliance with all its commitments under the third Geneva Convention through ICRC and diplomatic channels.

3. The Iranian side treated Iraq's initiative to release all Iranian prisoners as a unilateral action. The Iranian authorities, for their part, released a number of Iraqi prisoners on a one-for-one exchange basis. This action was neither legitimate nor realistic, since the number of Iraqi prisoners in Iran far exceeded the number of Iranian prisoners held in Iraq, all of whom have now been released and repatriated to Iran. As a result of this inhumane behaviour, thousands of Iraqi prisoners have remained in Iran despite the fact that much time has passed since the cease-fire between the two countries on 20 August 1988. Details are as follows:

(a) Total number of Iraqi prisoners in Iran repatriated to Iraq: 41,655.

(b) Total number of Iraqi prisoners remaining in Iran:

- 10,225 registered with ICRC and bearing ICRC numbers;

- 9,558 prisoners registered with ICRC on the basis of correspondence;

- 66,161 missing.

4. In order to follow up the issue of the missing, Iraq endeavoured to form a joint technical committee consisting of Iraq, Iran and ICRC, with a view to making the necessary arrangements to locate missing persons in the two countries. The committee was indeed established, but the Iranian side, determined to raise obstacles, did not officially ratify the rules and procedures for the work of the joint technical committee.

5. The Iraqi side strove to comply in full with paragraph 3 of Security Council resolution 598 (1987) and did in fact complete all steps relating to the repatriation of all Iranian prisoners. In addition, at all stages of the negotiations since the cease-fire between the two countries, the Iraqi side urged that priority be accorded to the implementation of article 118 of the third Geneva Convention of 1949 because this article, clearly stating as it does that all prisoners must be repatriated without delay after the cessation of active hostilities between the two countries, is not linked to the implementation of other paragraphs of the Security Council resolution concerned.

6. Iran has recruited some of the Iraqi prisoners for subversive activities against their country, thus contravening the provisions of the third Geneva Convention of 1949. It has also mistreated other Iraqi prisoners, in violation of the most basic humanitarian rules and international conventions.

7. During the period of treachery and treason in March 1991, a large number of Iraqi military personnel were forced to cross into Iran, where they were detained by the Iranian authorities. Yet they are not in fact prisoners because the cease-fire of 20 August 1988 was still in effect and relations between the two countries were moving towards normalization. Following the release in batches by the Iranian authorities of 1,400 of these military personnel, returnees have stated that thousands remain detained in Iran.

8. Iraq has many times requested the United Nations and ICRC to bring pressure to bear on the Iranian side with a view to its permitting the registration by ICRC of non-registered Iraqi prisoners detained in Iran, as well as regular visits by ICRC representatives to Iraqi prisoner camps, the transmission of correspondence to them from their relatives and vice versa and verification that they are being treated in accordance with the third Geneva Convention of 1949. It has also urged that the Iranian regime be obliged to comply with article 118, which provides for the repatriation of prisoners without delay after the cessation of active hostilities, and requested that

the two parties begin to sit down together at the negotiating table to solve outstanding problems between them with regard to prisoners and missing persons through the joint technical committee and under the auspices of ICRC.

9. Iran's representative to the United Nations, Kamal Kharrazi, met with the Secretary-General on 11 November 1991 to discuss Iran's willingness to release all the Iraqi prisoners of war it was detaining if Iraq did the same for Iranian prisoners. As a result of that meeting, our Mission in New York issued a statement making it clear that Iraq had unilaterally, to demonstrate its good intentions, fulfilled all its obligations relating to prisoners of war as contained in paragraph 3 of Security Council resolution 598 (1987) and in article 118 of the third Geneva Convention of 1949. It had released all Iranian prisoners of war, whether registered or otherwise, and those prisoners had been repatriated to Iran under the supervision of ICRC. No Iranian prisoner now remained in Iraq. It was the Iranian side which had refused to implement article 118 of the third Geneva Convention of 1949, since it continued to detain thousands of Iraqi prisoners, in addition to more than 60,000 Iraqi missing persons.

10. On 22 November 1991, Iran released 421 Iraqi prisoners of war registered with ICRC and announced that those prisoners were the last who wished to return to Iraq. The Minister for Foreign Affairs addressed a letter to the Chairman of ICRC on 30 November 1991 which legally refuted the Iranian regime's declaration that the 421 Iraqi prisoners were the last wishing to return to Iraq.

11. ICRC issued an invitation for a meeting of the joint technical committee at Geneva from 12 to 14 February 1992 and, on the basis of this invitation, which was accepted by both Iraq and Iran, the aforesaid committee met as scheduled, leading to the signature on 14 February 1992 of the attached plan of action. However, the Iranian side has not so far complied with the plan which it signed.

12. The Iranian side terminated all ICRC activities in Iran, and members of the ICRC Mission left Tehran on 26 March 1992. ICRC issued a statement on this subject in which it denied all the accusations directed at its representatives and stated its deep concern over the humanitarian consequences of the termination of its activities. It also noted in the statement that it was aware of the presence of over 20,000 Iraqi prisoners in Iranian territory of whom thousands had been detained for more than 10 years. ICRC also called on the Iranian Government to allow it to resume its humanitarian activities as soon as possible.

13. ICRC issued an invitation for a further meeting of the joint technical committee at Geneva on 15 April 1992. Both Iraq and Iran participated in these meetings, which concluded on 16 April 1992 with the approval of four appendices (transmitted herewith), all of which emphasize implementation of the plan of action signed on 14 February 1992, as well as the resumption of operations to repatriate prisoners by 1 May 1992.

14. Following the conclusion of the latest meetings of the joint technical committee at Geneva, the Iranian side announced that it had approved a resumption of ICRC activities in Iranian territory.

15. The Iranian regime returned to its tortuous ways once again, failing to comply with what was agreed at Geneva on 16 April 1992, namely, to resume operations for the repatriation of Iraqi prisoners on the specified date (1 May 1992). The Iranian side informed the Red Cross that the operation would be postponed and failed to specify any other date for its resumption.

I should be grateful if you would have this letter and its annex, which includes the plan of action for the remaining prisoners of war and its four appendices, circulated as a document of the Security Council.

(Signed) Abd al-Amir AL-ANBARI
Ambassador
Permanent Representative

Annex

INTERNATIONAL COMMITTEE OF THE RED CROSS

Plan of action concerning the remaining prisoners of war, mortal remains and persons missing in action

With the common desire to complete the process of repatriation of all Iranian and Iraqi prisoners of war (POWs) and to clarify the fate of all persons missing in action during the Iran/Iraq conflict, the Joint Technical Committee (JTC), at its meeting held in Geneva as of 12 February 1992, has decided to implement the following plan of action. The implementation of this plan will start on the date communicated under paragraph I.1.

I. Repatriation process and verification

1. The Parties undertake to resume the repatriation of POWs and to complete this process as early as possible.

   The Parties will inform the respective heads of the ICRC Delegations in Baghdad and Tehran by 22 February 1992 of the date of the resumption of the repatriation process, said date not to be later than the date fixed for the next meeting of the Joint Technical Committee (18 March 1992), of the date of the completion of the repatriation process, and the date of the completion of the action to be undertaken by the Parties under point I.8.

2. It is understood that the repatriation process will take place at the Khosravie/Mandaria border.

3. All POWs, whether presently interned or not in regular POW camps, will be gathered by the authorities at specific places where ICRC delegates will speak with them individually in order to establish their identity and ascertain whether or not they wish to be repatriated. Those POWs expressing the wish to be repatriated will immediately be taken to the border and handed over to representatives of their home country.

   The question of those POWs who previously refused to be repatriated will be taken up again at the next meeting of the JTC (18 March 1992), the ICRC insisting on its right to have access to them again (Art. 7 and 126 inter alia of the Third Geneva Convention of 1949).

4. Each Party hereby agrees to forward to the other Party a death certificate concerning each POW who has died in captivity and for whom no such document has yet been forwarded. The identity of deceased prisoners must be entered in accordance with the customs of their country of origin and the details given as to the "cause and circumstances of death" must specify both the direct cause of death and the illness or injury which led to it.

5. Interned POWs against whom judicial proceedings are pending or who are serving a sentence following such proceedings and are presently being detained in accordance with Art. 119, para. 5, of the Third Geneva Convention of 1949 will immediately benefit from a full amnesty and be released and repatriated without further delay.

6. Both Parties hereby agree not to interrupt the repatriation process as defined above.

7. Upon completion of the steps described above, the Party concerned will notify the ICRC thereof.

8. On receiving such notification the Power of Origin as well as the ICRC will be entitled to submit to this Party nominal lists of persons unaccounted for by this Party, but for whom evidence exists that they were taken captive alive. The Party in question undertakes to verify this evidence for each individual person and to report the results of this verification procedure in writing to the ICRC and the Power of Origin.

II. Information related to combatants killed in action

Both Parties undertake to forward to the other Party all information at their disposal relating to locations and markings of graves of combatants of the other Party killed in action.

III. Persons reported missing in action

1. Collection of information on missing persons

1.1. Each Party is responsible for compiling a list of its own missing persons, taking into account:

- captured persons who have been repatriated;
- deaths recorded among members of its own armed forces;
- notifications of deaths and information relative to deceased persons received from the other Party.

1.2. As regards its missing persons, each Party is responsible for compiling files with as many details as possible on the basis of page 1 of the form headed "Official request for missing person".

As a rule, there should be one file for each missing person.

2. Processing files for missing person

2.1. Each file opened will be sent in duplicate, using the attached form, to the ICRC, which will arrange for it to be forwarded to the Party concerned.

The reference number of each file is the preprinted number of the form.

2.2. On the basis of the contents of each file, the other Party will take all possible measures (administrative steps and appeals to the public) to obtain information on the person reported missing.

Details of the various measures taken and the results obtained will be recorded on page 2 of the form headed "Official request for missing person", duly dated and authenticated by the Party concerned. All documents relative to the measures taken and the results obtained will be included in the file. Any first-hand accounts will be dated and will contain the name(s) and address(es) of the witness(es).

2.3. Once the enquiry has been completed, page 2 of the form "Official request for missing person", with the accompanying documents, will be returned in duplicate to the Joint Technical Committee through the ICRC. Once the JTC, or a subcommittee established to this end, is satisfied that the Party concerned has undertaken all possible and reasonable steps to pursue the enquiry, it will formally accept the results and will officially communicate them to the Power of Origin and the family.

If the Committee considers that further steps should be undertaken to pursue the enquiry, it will ask the Party concerned to do so.

IV. Periodical review through the JTC

The Parties agree that they will meet on a regular basis to review the progress made. The next meeting will take place in Geneva on 18 March 1992.

[Signatures illegible]

For the authorities of the Islamic Republic of Iran	For the authorities of the Republic of Iraq	For the International Committee of the Red Cross

14 February 1992

Geneva, 14 February 1992

Press release No.
Geneva, 16 April 1992

Iranian and Iraqi delegations reach agreement in Geneva

Geneva (ICRC) - At a meeting held on 15 and 16 April 1992 at the Geneva headquarters of the International Committee of the Red Cross (ICRC) and under its auspices, delegations from the Republic of Iraq and the Islamic Republic of Iran discussed ways and means of facilitating the repatriation of the remaining POWs.

Both delegations reaffirmed the principles defined in the plan of action agreed upon on 14 February 1992. They again emphasized that they consider themselves bound by the Geneva Conventions of 1949 and assured each other that they will resume the repatriation process, under the auspices of the ICRC, not later than 1 May 1992.

In addition, the two Parties will be guided in the repatriation process by the documents presented by the ICRC to both sides during the meeting.

The ICRC declares its readiness to participate in the POW repatriation process, provided that its standard criteria are fully met.

Appendix I

Steps taken after the Joint Technical Committee meeting of 12 to 14 February 1992

On the basis of the agreement reached on 12 and 14 February 1992, the International Committee of the Red Cross was authorized to take the following steps:

I. In the Islamic Republic of Iran:

The ICRC carried out, from 10 to 19 March 1992, interviews without witnesses with 928 prisoners of war (POWs), of whom 151 agreed to be repatriated.

875 of these POWs had already been registered by the ICRC;

53 had not.

100 POWs were transported by the Iranian authorities to the border near Kasr Shirin on 14 March 1992, but were not repatriated.

II. In the Republic of Iraq:

The ICRC carried out, on 13, 15, 18, 25 and 29 March 1992, interviews without witnesses with 58 POWs, of whom 13 agreed to be repatriated. Of the latter, 6 wished to be repatriated with their families.

50 of these POWs had already been registered by the ICRC;

8 had not.

2 POWs were taken by the Iraqi authorities to the border at Mandaria on 14 March 1992, but were not repatriated.

III. The ICRC notes that the agreement signed by the Parties has not led to the repatriation of any POWs who wished to return home.

To date the remaining POWs have still not been repatriated, nor have the terms of the agreement, in particular chapter I, been implemented.

Appendix II

Information on POWs available to the ICRC

I. As concerns the Islamic Republic of Iran, the ICRC considers that Article 118 of the Third Geneva Convention applies at least to the following POWs known to the ICRC:

- 13,405 POWs registered by the ICRC;
- 5,606 POWs not registered by the ICRC but known to it through messages sent to their families;
- more than 400 POWs not registered by the ICRC but concerning whom conclusive evidence has been compiled in the Islamic Republic of Iran, in the form of lists of names, photos, interviews and statements in the Iranian media.

II. As concerns the Republic of Iraq, whose authorities stated that the repatriation of all the POWs it was holding was completed on 15 September 1991, the ICRC considers that the following POWs known to the ICRC should be visited or revisited, as part of the agreed Plan of Action:

- 645 POWs registered by the ICRC;
- 408 POWs not registered by the ICRC.

The repatriation of the above-mentioned Iranian and Iraqi POWs should be carried out in accordance with the provisions set forth under chapter I, points 1 to 6, of the Plan of Action agreed by the Parties, with priority given to POWs who have already expressed their desire to be repatriated and those who are interned.

It should be noted that the above figures may not be exhaustive and therefore may not include all the POWs who are entitled to repatriation under Article 118 of the Third Geneva Convention.

In the event of any delay in the repatriation of the POWs, the ICRC must have access to them at all times.

Appendix III

Practical implementation of the Plan of Action

(a) For the Islamic Republic of Iran

All the POWs shall be interviewed without witnesses by ICRC delegates in a place close to the border. Those POWS who wish to return home shall be separated from the others and be repatriated immediately. If the interviews cannot, for imperative reasons, be held at a place close to the border, they shall be held in the POW camps.

In the latter case a daily bus service shall take the POWs to the border for repatriation. The ICRC shall have access at all times to the POWs throughout the whole repatriation process.

(b) For the Republic of Iraq

All the POWs shall be interviewed without witnesses by ICRC delegates and those POWs who wish to return home shall be repatriated immediately.

Those POWs who cannot, for imperative reasons, be repatriated within 24 hours shall be transferred immediately after being interviewed by ICRC delegates to a separate place, to which the ICRC shall have access at all times, and shall be repatriated on the following day.

Appendix IV

The Parties agree to add an additional source of information on the Iranian POWs, namely a list containing 1,181 names, which has already been transmitted to the Iraqi authorities by the authorities of the Islamic Republic of Iran. This list is not to be considered as information available to the ICRC as mentioned in annex II. Nevertheless, the Iraqi authorities commit themselves to thoroughly search for this category of POW and those identified will notified to the ICRC in order to have interviews without witness and subsequently being repatriated if they wish so.

The Parties agree that adding this list will not alter their readiness to repatriate in priority the POWs who have already expressed their desire to be repatriated and those who are interned.